

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

| David Houle and Becky Houle, et. al.,     | )           | <b>ORDER EXTENDING<br/>TIME TO RESPOND</b> |
|---|-------------|--|
| Plaintiffs,                               | )           |  |
| vs.                                       | )           |  |
| Central Power Electric Cooperative, Inc., | )           |  |
| (CPEC),                                   | )           | Case No. 4:09-cv-021                       |
|   | )           |  |
|   | Defendants. | )  |
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| CPEC vs.                                  | Plaintiff,  | )  |
| <u>Vernella Jeannotte, et. al.,</u>       | Defendants. | )  |
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| CPEC vs.                                  | Plaintiff,  | )  |
| <u>Howard Longie, et. al.,</u>            | Defendants. | )  |
| <hr/>                                     |             |  |
| CPEC vs.                                  | Plaintiff,  | )  |
| <u>Pete Barnett, et. al.,</u>             | Defendants. | )  |
| <hr/>                                     |             |  |
| CPEC vs.                                  | Plaintiff,  | )  |
| <u>Kimberly Blackwell, et. al.,</u>       | Defendants. | )  |
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Before the court is a “Motion to Seek Additional Time to Respond to Motion for Summary Judgment Regarding Discrimination, Equal Protection, § 1981, § 1983, and Fraud Claims” filed by plaintiffs David and Becky Houle on December 21, 2012. (Docket No. 257). The existing deadline was set by the court’s October 26, 2012 order adopting the parties’ stipulation to extend the response deadline to ten days after CPEC filed an amended complaint. (Docket No. 230). CPEC filed an amended complaint on November 30, 2012. (Docket No. 238). In the motion for additional time, plaintiffs assert they mistakenly believed the response was not due until ten days after all pleadings necessitated by the amended complaint were closed and request that the court extend the deadline to ten days after the close of pleadings addressing CPEC’s amended complaint and to no earlier than January 10, 2013, due to the holiday season. On December 26, 2012, defendant CPEC filed a brief objecting to the motion for extension of

time. CPEC asserts that the stipulation clearly required plaintiffs to respond within ten days of the filing of the amended complaint and requests that the court to dismiss with prejudice the claims addressed in the summary judgment motion at issue.

This case is set to be resolved in two separate trials, a first on the issue of use and necessity and a second on the remaining claims and the issue of damages. The most immediate substantive concern of the court is the issue of use and necessity which is set for trial in February 2013. The subsequent trial in which the claims at issue here, as well as claims for just compensation, will be addressed is not set to begin until June 2013. At this point in the proceedings, there will be adequate time to address the motions regarding the subject claims if an extension of time to respond is granted. Therefore, the court **GRANTS** plaintiffs' motion for additional time (Docket No. 257) and **ORDERS** plaintiffs' deadline to file a response to defendant CPEC's "Motion for Summary Judgment Regarding Discrimination, Equal Protection, § 1981, § 1983, and Fraud Claims" (Docket No. 206) be extended to January 10, 2013.

In addition, the court notes that counsel for the Houles is representing the individual defendants in the four additional cases captioned above, that similar summary judgment motions are pending in those cases, and that the individual defendants in those cases have not filed responses to those motions. Although requests for extensions of time were not electronically filed, the court assumes that the defendants in those cases intended to request additional time to respond. For the reasons stated above, the court **ORDERS** that for the individual defendants in the additional cases, the deadline to file responses to the pending summary judgment motions regarding the issues of discrimination, equal protection, § 1981, § 1983, and fraud claims be extended to January 10, 2013.

**IT IS SO ORDERED.**

Dated this 28th day of December, 2012.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr.  
United States Magistrate Judge